

**ASSEMBLY BILL**

**No. 1573**

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**Introduced by Assembly Member Brownley**

February 1, 2012

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An act to amend Section 48204 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1573, as introduced, Brownley. School attendance: residency requirements: foster children.

Existing law requires persons between the ages of 6 and 18 to attend a public school within the school district in which the pupil's parent or legal guardian resides, unless otherwise exempted.

Under existing law, a pupil is deemed to have complied with that residency requirement if the pupil attends a public school within the school district in which his or her foster home is located. Existing law also requires a local educational agency serving a foster child to allow the child to remain in his or her school of origin, as defined, for the duration of the jurisdiction of the juvenile court.

This bill would deem a pupil who is a foster child who remains in his or her school of origin to have met the residency requirements for school attendance in that school district. To the extent that this bill would impose additional duties on a school district of origin, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 48204 of the Education Code, as amended  
2 by Section 1 of Chapter 447 of the Statutes of 2011, is amended  
3 to read:

4 48204. (a) Notwithstanding Section 48200, a pupil complies  
5 with the residency requirements for school attendance in a school  
6 district, if he or she is any of the following:

7 (1) (A) A pupil placed within the boundaries of that school  
8 district in a regularly established licensed children's institution,  
9 or a licensed foster home, or a family home pursuant to a  
10 commitment or placement under Chapter 2 (commencing with  
11 Section 200) of Part 1 of Division 2 of the Welfare and Institutions  
12 Code.

13 (B) An agency placing a pupil in a home or institution described  
14 in subparagraph (A) shall provide evidence to the school that the  
15 placement or commitment is pursuant to law.

16 (2) *A pupil who is a foster child who remains in his or her school*  
17 *of origin pursuant to subdivisions (d) and (e) of Section 48853.5.*

18 ~~(2)~~

19 (3) A pupil for whom interdistrict attendance has been approved  
20 pursuant to Chapter 5 (commencing with Section 46600) of Part  
21 26.

22 ~~(3)~~

23 (4) A pupil whose residence is located within the boundaries of  
24 that school district and whose parent or legal guardian is relieved  
25 of responsibility, control, and authority through emancipation.

26 ~~(4)~~

27 (5) A pupil who lives in the home of a caregiving adult that is  
28 located within the boundaries of that school district. Execution of  
29 an affidavit under penalty of perjury pursuant to Part 1.5  
30 (commencing with Section 6550) of Division 11 of the Family  
31 Code by the caregiving adult is a sufficient basis for a  
32 determination that the pupil lives in the home of the caregiver,

1 unless the school district determines from actual facts that the pupil  
2 is not living in the home of the caregiver.

3 ~~(5)~~

4 (6) A pupil residing in a state hospital located within the  
5 boundaries of that school district.

6 (b) A school district may deem a pupil to have complied with  
7 the residency requirements for school attendance in the district if  
8 at least one parent or the legal guardian of the pupil is physically  
9 employed within the boundaries of that district for a minimum of  
10 10 hours during the school week.

11 (1) This subdivision does not require the school district within  
12 which at least one parent or the legal guardian of a pupil is  
13 employed to admit the pupil to its schools. A school district shall  
14 not, however, refuse to admit a pupil under this subdivision on the  
15 basis, except as expressly provided in this subdivision, of race,  
16 ethnicity, sex, parental income, scholastic achievement, or any  
17 other arbitrary consideration.

18 (2) The school district in which the residency of either the  
19 parents or the legal guardian of the pupil is established, or the  
20 school district to which the pupil is to be transferred under this  
21 subdivision, may prohibit the transfer of the pupil under this  
22 subdivision if the governing board of the district determines that  
23 the transfer would negatively impact the court-ordered or voluntary  
24 desegregation plan of the district.

25 (3) The school district to which the pupil is to be transferred  
26 under this subdivision may prohibit the transfer of the pupil if the  
27 district determines that the additional cost of educating the pupil  
28 would exceed the amount of additional state aid received as a result  
29 of the transfer.

30 (4) The governing board of a school district that prohibits the  
31 transfer of a pupil pursuant to paragraph (1), (2), or (3) is  
32 encouraged to identify, and communicate in writing to the parents  
33 or the legal guardian of the pupil, the specific reasons for that  
34 determination and is encouraged to ensure that the determination,  
35 and the specific reasons therefor, are accurately recorded in the  
36 minutes of the board meeting in which the determination was made.

37 (5) The average daily attendance for pupils admitted pursuant  
38 to this subdivision is calculated pursuant to Section 46607.

39 (6) Unless approved by the sending school district, this  
40 subdivision does not authorize a net transfer of pupils out of a

1 school district, calculated as the difference between the number  
2 of pupils exiting the district and the number of pupils entering the  
3 district, in a fiscal year in excess of the following amounts:

4 (A) For a school district with an average daily attendance for  
5 that fiscal year of less than 501, 5 percent of the average daily  
6 attendance of the district.

7 (B) For a school district with an average daily attendance for  
8 that fiscal year of 501 or more, but less than 2,501, 3 percent of  
9 the average daily attendance of the district or 25 pupils, whichever  
10 amount is greater.

11 (C) For a school district with an average daily attendance of  
12 2,501 or more, 1 percent of the average daily attendance of the  
13 district or 75 pupils, whichever amount is greater.

14 (7) Once a pupil is deemed to have complied with the residency  
15 requirements for school attendance pursuant to this subdivision  
16 and is enrolled in a school in a school district the boundaries of  
17 which include the location where at least one parent or the legal  
18 guardian of a pupil is physically employed, the pupil does not have  
19 to reapply in the next school year to attend a school within that  
20 district and the district governing board shall allow the pupil to  
21 attend school through grade 12 in that district if the parent or legal  
22 guardian so chooses and if at least one parent or the legal guardian  
23 of the pupil continues to be physically employed by an employer  
24 situated within the attendance boundaries of the district, subject  
25 to paragraphs (1) to (6), inclusive.

26 (c) This section shall become inoperative on July 1, 2017, and  
27 as of January 1, 2018, is repealed, unless a later enacted statute,  
28 that becomes operative on or before January 1, 2018, deletes or  
29 extends the dates on which it becomes inoperative and is repealed.

30 SEC. 2. Section 48204 of the Education Code, as amended by  
31 Section 2 of Chapter 447 of the Statutes of 2011, is amended to  
32 read:

33 48204. (a) Notwithstanding Section 48200, a pupil complies  
34 with the residency requirements for school attendance in a school  
35 district, if he or she is:

36 (1) (A) A pupil placed within the boundaries of that school  
37 district in a regularly established licensed children's institution,  
38 or a licensed foster home, or a family home pursuant to a  
39 commitment or placement under Chapter 2 (commencing with

1 Section 200) of Part 1 of Division 2 of the Welfare and Institutions  
2 Code.

3 (B) An agency placing a pupil in the home or institution  
4 described in subparagraph (A) shall provide evidence to the school  
5 that the placement or commitment is pursuant to law.

6 (2) *A pupil who is a foster child who remains in his or her school*  
7 *of origin pursuant to subdivisions (d) and (e) of Section 48853.5.*

8 ~~(2)~~

9 (3) A pupil for whom interdistrict attendance has been approved  
10 pursuant to Chapter 5 (commencing with Section 46600) of Part  
11 26.

12 ~~(3)~~

13 (4) A pupil whose residence is located within the boundaries of  
14 that school district and whose parent or legal guardian is relieved  
15 of responsibility, control, and authority through emancipation.

16 ~~(4)~~

17 (5) A pupil who lives in the home of a caregiving adult that is  
18 located within the boundaries of that school district. Execution of  
19 an affidavit under penalty of perjury pursuant to Part 1.5  
20 (commencing with Section 6550) of Division 11 of the Family  
21 Code by the caregiving adult is a sufficient basis for a  
22 determination that the pupil lives in the home of the caregiver,  
23 unless the school district determines from actual facts that the pupil  
24 is not living in the home of the caregiver.

25 ~~(5)~~

26 (6) A pupil residing in a state hospital located within the  
27 boundaries of that school district.

28 (b) This section shall become operative on July 1, 2017.

29 SEC. 3. If the Commission on State Mandates determines that  
30 this act contains costs mandated by the state, reimbursement to  
31 local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.